

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 56th LEGISLATURE - REGULAR SESSION

JOINT APPROPRIATIONS SUBCOMMITTEE ON GENERAL GOVERNMENT AND TRANSPORTATION

Call to Order: By **CHAIRMAN LILA TAYLOR**, on January 26, 1999 at
8:00 A.M., in Room 402 Capitol.

ROLL CALL

Members Present:

Rep. Lila Taylor, Chairman (R)
Sen. Mike Taylor, Vice Chairman (R)
Sen. Eve Frenklin (D)
Sen. Ken Mesaros (R)
Rep. Ray Peck (D)
Rep. Joe Quilici (D)

Members Excused: None.

Members Absent: None.

Staff Present: Skip Culver, Legislative Branch
Lynn Daily, Committee Secretary
Mary LaFond, OBPP

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Judiciary Budget Testimony
Continued
MT Chiropractic Legal Panel Budget
Testimony

Supreme Court Operations A-16

Pat Chenovick, Administrator of the Supreme Court, speaks for
their budget.

EXHIBIT (jgh20a01): Judicial Branch Actual Vacancy Savings - FY98
the \$39,217 that the Water Court saved was from forced vacancies

They have six distinct programs

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1. Supreme Court Operation
 - takes care of justices, support staff, and administrators
2. Board and Commissions
 - boards court has put into place to assist with constitutional rights
3. Law Library
 - take care of legal arm of court
4. District Court Operation
 - state funding in district court
 - pays out of state fund for travel, salary, and training
5. Water Court
6. Clerk of Supreme Court
 - statutory program

Supreme Court Operations

Personal Services

- will work with vacancies
 - believe they have never had a 3% vacancy savings
 - would have to terminate 1.5 to 2 FTEs

DP 1011 - Legal Research and Association Cost (A-17)
asking for two electronic legal system that the court needs

Judy Meadows, Librarian for State Law Library

Westlaw and Lexus are the two systems

- very unique data bases

Westlaw has changed over the last 9 months and will no longer have a crucial part of the program called Shepards which is a citation service

- used by the judges to see if the law is a good law and has not been overturned
- primary legal tool for the courts

Questions from Committee Members and Responses:

CHAIRMAN TAYLOR asks if any one can access these systems. **Mrs. Meadows** says that they have state contracts and the district judges have their own passwords. If a private firm wants to use they get billed a small fee.

DP 1014 - Electronic Document Retention (A-17)
need \$80,000 to put records into usable form
asking for money to go together with other agencies to have uniform operation

Questions from Committee Members and Responses:

CHAIRMAN TAYLOR asks about the contractor that they hired last session. **Mr. Chenovick** says that they hired a contractor

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selected by ISD for \$20,000 to tell them what they would need and it would cost \$80,000.

REP. PECK asks Mr. Chenovick to describe the actual operation of the courts from a business standpoint. **Mr. Chenovick** serves at the pleasure of the whole court. The Chief Justice makes the final decisions but he may ask the other judges for options.

{Tape : 1; Side : A; Approx. Time Counter : 0 - 30.2}

Skip Culver, Staff, asks about the imaging equipment that they received \$20,000 in FY98 and \$20,000 in FY99. **Mr. Chenovick** says they are going to pool their resources to form a uniform system. **Skip** then asks if the \$40,000 will go to ISD. **Mr. Chenovick** says yes. **Skip** asks how long this will take. **Mr. Chenovick** says that they have 22 file cabinets full of information that needs to be transferred. **Lisa Smith, Supreme Court**, says that one advantage of going with ISD is they are going to help them work with the security requirements, some of the documents are sealed and confidential and as the technology changes ISD will get and implement.

Skip asks why the library is asking for \$50,000 for scanning equipment of their own and why they are not going to contract with ISD. **Mrs. Meadows** says that this will be an ongoing process and it wouldn't be efficient to go across the street and use ISD's equipment. Almost half of the \$50,000 would be for contract help to get them started. \$26,000 would be a one time only fee for equipment.

{Tape : 1; Side : B; Approx. Time Counter : 0 - 18.9}

DP 2111 Federal Court Assessment Program (page A-17)

- federal government extended the program
- asking for General Fund match
- Court Assessment looks at the big picture of use and neglect cases for children tries to put recommended changes into effect
- HB 207 introduced by Royal Johnson
 - changing payment on use and neglect

Foster Care Program

Pat Chenovick, Montana Supreme Court, speaks for the Foster Care Program.

EXHIBIT (jgh20a02): Letter from Judge James E. Purcell, District Judge

- Judges have more information and foster parents and kids seem to know what is going on

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DP 1012 - Justices/DC Clerk Training (page A-17)

- asking for funds to do training for Supreme Court justices
- court feels they need to go to conferences
- there is \$27,000 in the base for this
- District clerks are retrained 2 per year

DP 1013 - Equipment (page A-17)

- asking for replacement of equipment

{Tape : 1; Side : B; Approx. Time Counter : 18.9 - 28.7}

Questions from Committee Members and Responses:

CHAIRMAN TAYLOR asks how old the computers are. **Mr. Chenovick** says three years. **Lisa Smith** says they are on a four year replacement cycle. Nothing would be replaced that wasn't 4 years old. **Mr. Chenovick** says they buy maybe 2 or 3 chairs per year.

SEN. FrenkLIN asks about the court automation system. **Mr. Chenovick** says it started in July 1995 and they have put the hardware in 55 of the 56 district courts. They all have the same software that runs in DOS and are in the process of moving to windows. Missoula County doesn't have the software, but it will start February 1.

SEN. MESAROS asks how much of the \$49,000 each year can go back to MT PRRIME. **Mr. Chenovick** believes MT PRRIME will be on a rate per device. The \$49,000 would not include any rates and would be used for hardware.

REP. PECK asks what is in the base budget operations. **Mr. Chenovick** says there are several places where the funding comes from. The bulk of the funding comes from local government. **REP. PECK** asks if the district court judges who serve more than one county have a budget in each county. **Mr. Chenovick** says that is correct.

CHAIRMAN TAYLOR asks what the surcharge for the hardware is. **Mr. Chenovick** says they pay for the hardware and the software funding is at local control.

REP. PECK asks if the fines go to fund the courts. **Mr. Chenovick** says in the JP court half goes to the state and half goes to the county. Not all counties have district court funds.

Boards and Commissions (page A-19)

- asked for an enhancement
- proposed to get \$132,560 of General Fund money
- would be used for contract audits

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- there are 150 courts of limited jurisdiction and 115 judges

DP 1021 - Judicial Standards Rst. Appropriation (page A-19)

- constitutional commission
- they feel that if a big case comes along they will be required to find funds
- only have \$13,000

Questions from Committee Members and Responses:

CHAIRMAN TAYLOR asks if they don't do this can they request a supplemental. **Skip Culver** says they can get on as long as it is justified. When they get to the end of the fiscal year if money is left over in other budget they can get funds transferred.

DP 1022 - COP Expansion (page A-20)

- volunteers and don't get payed
- requires a great amount of work
- has allowance for travel and investigation costs

Questions from Committee Members and Responses:

SEN. MESAROS asks how many complaints they get. **Mr. Chenovick** says in 1993 - 250, 1994 - 244, 1995 - 244, 1996 - 242, 1997 - 308, and in 1998 189 as of October.

CHAIRMAN TAYLOR asks what about the East. **Mr. Chenovick** says they are going to get one member from the East.

DP 2023 - MT Judicial Institute (page A-20)

- was funded for 2 years and had about 30 judges attend
- have judges come to law school for two weeks taught for two summers by legal professors

{Tape : 2; Side : A; Approx. Time Counter : 0 - 30.2}

- feel institute gives them law school training and ability to do research
- superior method to educate judges
- limited to 30 judges per session

Questions from Committee Members and Responses:

SEN. MESAROS asks what other sources were persuaded. **Mr. Chenovick** says they felt they could get some grants and sought funding from private endowments. They were unsuccessful, but they are still trying.

CHAIRMAN TAYLOR asks if the people who attend pay. **Mr. Chenovick** says they pay room and board. They solicit judges and then select from the responses.

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SEN. FrenkLIN asks if he knows if there is a requirement for judges to have a certain amount of continuing education. **Mr. Chenovick** says the Supreme Court requires 15 hours per year. The court of Limited Jurisdiction have to be trained and certified two times per year. The cost is shared with the state. **SEN. FrenkLIN** asks is they have looked into marketing and responses on whether people will be willing to pay for the programs. **Mr. Chenovick** says no. They can't really make any money once they're off the bench.

REP. PECK asks how many are attorneys. **Mr. Chenovick** says out of 150 about 10 are attorneys.

Rex Renk, Deputy Clerk of the Supreme Court, speaks for the budget.

EXHIBIT (jgh20a03): Letter from Ed Smith

EXHIBIT (jgh20a05): Testimony by Rex Renk

Questions from Committee Members and Responses:

REP. QUILICI asks if for the upgrades do they go through personal DOA. **Mr. Renk** says judiciary is exempt.

REP. PECK asks about the one upgrade of 43.6%. **Mr. Renk** says they made two assistant positions the same level. Everyone in the office is cross trained.

{Tape : 2; Side : B; Approx. Time Counter : 0 - 28.1}

REP. QUILICI asks what grade are the assistant clerks. **Mr. Renk** says they are paid \$33,000.

REP. PECK asks if overtime and comp. time is involved. **Mr. Renk** says they are entitled to overtime, but they have not claimed it. They have chosen not to take either.

SEN. MESAROS asks if DP 10602 is due to the amount of cases coming in or has it never been completed. **Mr. Renk** says they need to replace an older shelving unit. They didn't transfer the docket sheet to microfish in the last biennium and they would like to do this. **SEN. MESAROS** asks how much shelving they are going to build for this money. **Mr. Renk** says at least 8 feet. It is metal shelving with plastic brackets and they are looking at maybe 9 feet of shelving for one case.

REP. QUILICI asks if the \$10,700 that was appropriated for the Microfish and storing case load was all used for that purchase. **Mr. Renk** says some of it was transferred to salary. **Skip** says

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the Department of Motor Vehicles are saying its an annotated process and why would you not "piggy back" with others. **Mr. Renk** says they would be willing to do that.

REP. PECK states that perhaps they should be looking at what other agencies are doing. **Lisa Smith** says that efficiency wise that is where they all should go, but they have 7 supreme court justices and not all of them use computers. So they have to do what will work.

CHAIRMAN TAYLOR asks since 1981, is there anything that the clerk used to do that they no longer do. **Mr. Renk** only knows since 1989. In March of 1998 they subcontracted the billing part to the Bar. As of November 1998, the small roll they had with regard to the admission process they no longer do and it is now done at the state Bar.

CHAIRMAN TAYLOR asks about DP 20603 - equipment. **Mr. Renk** says the money for the new computer was in the hope that they would get 1 FTE. There is no security at the clerk office and they have to be open.

REP. PECK asks if they have anything in mind for security. **Mr. Renk** says it will range from a metal detector to plexy glass for the front of the counter. **REP. PECK** asks if there have been confrontations. **Mr. Renk** says only verbal.

Pat Chenovick speaks for the budget.

District Court Operations (page A-24)

- program that has funding to pay for district court judges salary and training

EXHIBIT (jgh20a04): Supreme Court Justices & District Court Judges Service Statistics

DP 20401 - New Judges Training (page A-25)

- in 1994 they had 15 district judges up for election and had 10 new
- usually send new district court judges to school in Reno, Nevada
- asked for \$2,000

Personal Services

- made up of HB 170
 - use base year 1998
 - didn't include additional money put in for judge's retirement
 - short 19%

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- statutory method for which judges get pay raises
{Tape : 3; Side : A; Approx. Time Counter : 0 - 30.3}

DP 10401 - Benchbook and Deskbook Update (page A-24)

- books they provide to district court judges
- doesn't include the statutes
- do provide benchbook
- use as reference manual when on bench
- used an intern to cover 3 sections for updates
- would like to update all section
- sell book and money goes to General Fund

DP 10402 - Vehicle Lease (page A-25)

- lease 7 cars
- payment of \$304 per month per car
- estimated increase of about \$35 per car when the lease is
up January 2000

Questions from Committee Members and Responses:

CHAIRMAN TAYLOR asks can the judge choose to use his own car.

Mr. Chenovick says they discourage this because it is more expensive. They do use their own cars where they don't provide cars. **CHAIRMAN TAYLOR** asks have they gone out to see how this compares to leasing. **Mr. Chenovick** says the state leased through private providers. The cars are Chevy Luminas. **CHAIRMAN TAYLOR** asks how much is in the budget for the new judge training. **Mr. Chenovick** says \$26,000. They use for district judges to attend training conferences and for the new judges.

SEN. TAYLOR asks if it is possible to bring the training here.

Mr. Chenovick says they have done this before, but it is hard to get the judges together with their case loads. **Mary LaFond** says they have a one time only list in their budget book and the judges training is on the list.

SEN. MESAROS asks how much of the base budget goes to this. **Mr. Chenovick** says he believes Sen. Jab has a bill they would carry a fiscal impact to them.

CHAIRMAN TAYLOR asks how many of their districts are not maxed out on cases. **Mr. Chenovick** says some districts in the Eastern part of the state have a low case count. In Plentywood the judge has offered his services and gone to Great Falls and other places to help. The districts are all set by the legislature. Sen. Jab's bill adds 3 judges. **CHAIRMAN TAYLOR** asks if the judge is required to go to the county where the case resides. **Mr. Chenovick** says yes.

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SEN. TAYLOR asks if the judges were approved, could the Lake County and Flathead judge split time. **Mr. Chenovick** says yes.

Mary Lou Garret, Chiropractic Legal Panel, speaks for the budget.
MT Chiropractic Legal Panel (page A-30)

- increase in consultant and legal fees because of an increase in the work load
- file claim with legal panel for review before can file in court panel of 3 layers
- many times frivolous suits
- saves time and money
- very timely
- funded through fees by Chiropractic office
- \$50 per year

Questions from Committee Members and Responses:

REP. QUILICI asks what has the panel done when they find a Chiropractor has committed a malpractice. **Mr. Garret** says it has resulted in fines and probation.

SEN. MESAROS asks how what the average number of cases is per year. **Mrs. Garret** says they never know. Last year they had 5.
{Tape : 3; Side : B; Approx. Time Counter : 0 - 28}

Mary LaFond says part of the increase is due to the audit fees. They are audited every 2 years.
{Tape : 4; Side : A; Approx. Time Counter : 0 - 1.9}

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ADJOURNMENT

Adjournment: 11:07 A.M.

REP. LILA TAYLOR, Chairman

LYNN DAILY, Secretary

LT/LD

EXHIBIT (jgh20aad)